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Of Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

OREGON NATURAL DESERT ASS’N and
WESTERN WATERSHEDS PROJECT,

Plaintiffs,

v.

CAROLYN FREEBORN, Field Manager,
Jordan Resource Area, BLM, *et al.*,

Defendants.

Case No. 3:06-cv-1311-MO

STIPULATION AND ORDER
REGARDING PLAINTIFFS’ MOTION
FOR ATTORNEY FEES AND COSTS

Plaintiffs Oregon Natural Desert Association and Western Watersheds Project
(collectively, “ONDA”) and Defendants Carolyn Freeborn *et al.* (collectively, “BLM”) hereby
submit and respectfully request that the Court approve this stipulation memorializing their

agreement providing for disposition of ONDA's Motion for Attorney Fees and Costs (Dkt # 167). Specifically, the parties stipulate as follows:

1. On September 10, 2012, the Court entered an Amended Judgment (Dkt # 160) granting ONDA's Renewed Motion for Summary Judgment (Dkt # 132). On June 28, 2013, ONDA filed its petition for attorney fees and costs (Dkt # 167). Through that petition and the accompanying declaration of ONDA's counsel (Dkt # 168) and an unopposed Motion for Stay (Dkt # 169), the parties stated to the Court that they were negotiating in good faith to attempt to settle the issue of attorney fees, costs, and other expenses, and asked the Court to stay further proceedings on the fee petition so that they could continue to negotiate. The Court granted that request and two subsequent requests asking for additional time to negotiate (Dkt ## 171–175), staying the application for fees until November 15, 2013. The parties now have agreed on the terms of a settlement. This stipulation serves to memorialize and formalize their agreement.

2. ONDA claims entitlement to attorney fees and expenses pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) *et seq.* Without any admission of fact or law, BLM agrees to settle ONDA's claim for attorney fees and expenses in this matter in order to avoid further litigation. In settlement of these claims, subject to the exceptions set forth in the following paragraph, BLM shall pay \$305,000.00 to ONDA by electronic funds transfer.

3. ONDA agrees to accept payment of \$305,000.00 in full satisfaction of any and all claims for attorney fees, costs, and expenses to which ONDA asserts that it is entitled in this matter. Provided, however, that ONDA is not barred by this or any other provision of this stipulation from seeking attorney fees, costs, and expenses incurred to enforce the terms of this stipulation; subject, however, to all available defenses, including that ONDA is not entitled to attorney fees, costs, or expenses related to enforcement of the stipulation.

4. Within five (5) days of the date this stipulation becomes effective by and through the Court's ordering that the stipulation is approved and incorporated into the terms of the Court's Order as provided below, ONDA's counsel shall provide the following information to counsel for BLM:

- Bank name
- Bank address
- Routing number
- Account number
- Name of Account
- Federal Taxpayer Identification number

BLM will promptly initiate the process for securing payment of the above-referenced sum and BLM's counsel will provide documentation (via email) to ONDA's counsel advising of the initiation of that process. BLM shall make its best effort to transmit payment to ONDA no later than thirty (30) days after its counsel provides the information listed above. BLM's counsel will also provide notice by email to ONDA's counsel that the electronic funds transfer has been made. Payment of this sum by BLM shall constitute satisfaction in full of its obligations under this stipulation as well as any claim for costs of suit or attorney fees arising out of these actions, except as otherwise provided above.

5. Upon the Court's approval of this stipulation, as provided below, ONDA hereby withdraws its motion for attorney fees and costs.

6. The fact that the parties are entering into this stipulation does not constitute, and shall not be construed as, an admission or concession on the part of either ONDA or BLM with respect to any issues related to the claims ONDA has presented in its motion for attorney fees and costs in this case.

7. The parties respectfully request that the Court incorporate this stipulation into its Order by signing on the signature block below provided for that purpose.

DATED this 4th day of December 2013. Jointly & Respectfully submitted,

s/ Peter M. Lacy

Peter M. Lacy ("Mac")
Oregon Natural Desert Association

Of Attorneys for Plaintiff

s/ Stephen J. Odell

Stephen J. Odell
Assistant U.S. Attorney

Of Attorneys for Defendants

Having reviewed and approved of the foregoing stipulation of the parties, and hereby incorporating it into the terms of this Order, IT IS SO ORDERED this 4th day of Dec . 2013.

/s/Michael W. Mosman

THE HONORABLE MICHAEL W. MOSMAN
United States District Judge